

Congress of the United States
Washington, DC 20515

October 24, 2003

Honorable John Warner, Chairman
Honorable Carl Levin, Ranking Member
Senate Committee on Armed Services
Washington, D.C. 20510

Honorable Duncan Hunter, Chairman
Honorable Ike Skelton, Ranking Member
House Committee on Armed Services
Washington, D.C. 20515

Dear Chairmen Warner and Hunter, and Ranking Members Levin and Skelton:

We are writing to express our support for Section 322 of the Senate passed National Defense Authorization Act for Fiscal Year 2004, and urge you to retain this provision in conference. Section 322 would allow an Integrated Natural Resource Management Plan (INRMP) prepared by the Secretary of Defense under the Sikes Act to substitute for critical habitat designated under the Endangered Species Act (ESA) as long as the INRMP provides for the conservation of species and receives adequate funding. The Senate language would give the DOD the flexibility it needs to maintain national security without sacrificing species.

In contrast, the House language in Section 317 of H.R. 1588 could undermine the recovery of 300 threatened and endangered species on the 25 million acres of military lands. Under H.R. 1588, the Secretary of Defense would have the authority to substitute an INRMP for critical habitat designation, but there is no requirement that the INRMP assist species.

In our view, the Secretary of the Interior already has the authority in Section 4(b)(2) of the ESA to exclude lands from critical habitat designation for any reason, including national security or completion of an INRMP. The Fish and Wildlife Service's authority under Section 4(b)(2) has never been challenged successfully in court. The Senate language would give the Secretary of Defense more guidance to follow when preparing an INRMP, and increase the likelihood that species will actually recover. Unless the INRMP is required to provide for the conservation of species, the only time the conservation needs of the species will be examined will be when the Department of Defense consults with the Fish and Wildlife Service regarding the effects that a proposed action could have on endangered and threatened species. By then, the populations of species will likely have dwindled and it will be too late for them to recover.

Moreover, the House language fails to adopt the one provision recommended in testimony by the Department of the Interior to avoid future litigation. Interior Assistant Secretary Craig Manson in testimony before the House Armed Services Committee

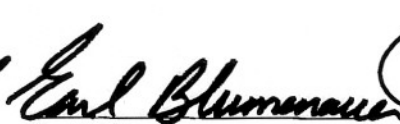
recommended deletion of the language "provides the 'special management considerations or protection' required under the Endangered Species Act (16 U.S.C. 1532(50(A) and" from Section 317 of H.R. 1588, but his request was ignored.

H.R. 1588 also includes a provision the Department of Defense never requested but that could have a negative effect on endangered and threatened species in the San Pedro watershed in Arizona. Section 319 would exempt Fort Huachuca from the Section 7 consultation requirements in the ESA regarding the effect that off-base actions may have on the water used by endangered and threatened species. This provision would nullify the water conservation commitments Fort Huachuca has made that have won the base awards. Section 319 should be dropped in conference.

We reiterate our support for the Senate position on provisions affecting endangered and threatened species in conference. Our country can meet our national security and military readiness needs without causing species to go extinct.

Thank you for considering our views on this important matter.

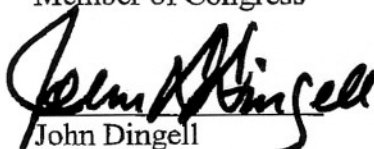
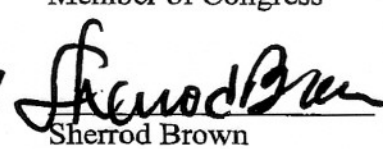
Sincerely,

Nick J. Rahall
Member of Congress

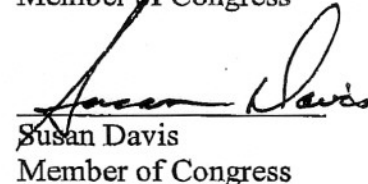
Earl Blumenauer
Member of Congress

George Miller
Member of Congress

John Dingell
Member of Congress

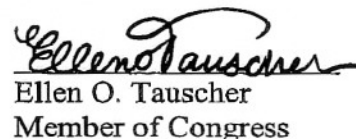
Sherrod Brown
Member of Congress



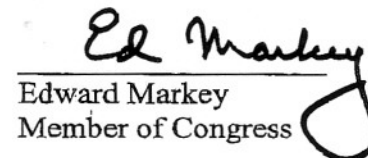
Susan Davis
Member of Congress



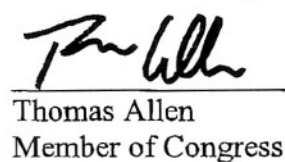
Frank Pallone
Member of Congress



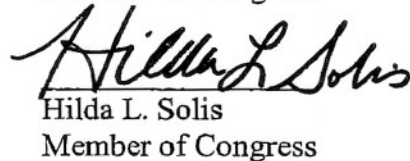
Ellen O. Tauscher
Member of Congress



Edward Markey
Member of Congress



Thomas Allen
Member of Congress



Hilda L. Solis
Member of Congress